

REMARKS

The Examiner has finally rejected claims 1-3 and 6-8 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6, 370,102 to Mons et al. The Examiner has further finally rejected claims 4 and 5 under 35 U.S.C. 103(a) as being unpatentable over Mons et al.

The Mons et al. patent discloses a multilayer record carrier and device for scanning the carrier, in which each layer is provided with a control block in which information is stored which can be used for reading the user information stored in the particular layer.

As noted in MPEP § 2131, it is well-founded that "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Further, "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claim 1 (as well as claim 6) includes the limitation "each recording layer comprising a pre-formed recording control pattern that is readable via said beam for indicating the track, and at least one recording control pattern comprising a recording stack type indicator for indicating the writing parameters of the second recording stack".

In the prior Office Action, the Examiner had indicated that Mons et al. teaches this claim limitation "(Fig.3, type indicator 26. Figure 4 shows the detail of type indicator 26. See also column 5, lines 20-54)." The Examiner now states:

"**First**, applicant states that the reference of MONS et al does not teaches the feature of recording stack of different writing parameters. Applicant is directed to MONS et al's column 5, lines 20-54, which shows that " FIG. 4 diagrammatically shows the division of the control block 26 for the first information layer 6. The block 26 comprises a first sub-block 32 with information about the record carrier as a whole. The information may comprise a type indication of the record carrier, an indication of the number of information layers and the number of blocks of user information in the record carrier, **parameters** (plural) for the radiation beam for writing and reading ". The phrase " parameters " in plural form which means that the parameter of each stack (layer) could have the same or different."

Applicants would like to point out to the Examiner that it is well-known in the art that the radiation beam has different parameters for writing than for reading, and that there are more than one parameter that need to be set for the radiation beam for either writing or reading. Just because Mons et al. uses the term "parameters" in plural, does not mean that Mons et al. is referring to different layers.

The portion of Mons et al. from which the Examiner is citing, i.e., col. 5, lines 23-32, states:

"The information may comprise a type indication of the record carrier, an indication of the number of information layers and the number of blocks of user information in the record carrier, parameters for the radiation beam for writing and reading, information about encryption of the stored information, a table of contents with a global indication of the user information stored in each layer, data relating to a group of record carriers of which this record carrier forms part, and indications of the publisher and manufacturer."

There is no disclosure in Mons et al. that the layers may differ and as such may each required different parameters for writing/reading. In the control block of Mons et al., there is no distinguishing of the parameters of the radiation beam for writing and reading for each layer. Further, there is no disclosure or suggestion that the writing parameters for the second stack should be in the control block in each recording layer.

Applicants reiterate the pronouncement of the CAFC "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicants challenge the Examiner to show the above claim limitation in Mons et al. "in as complete detail as is contained in the ... claim".

In view of the above, Applicants believe that the subject invention, as claimed, is neither anticipated nor rendered obvious by the prior art, and as such, is patentable thereover.

Applicants believe that this application, containing claims 1-8, is now in condition for allowance and such action is respectfully requested.

Respectfully submitted,

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